REGISTER OF CLASSIFICATION DECISIONS

Date of entry in Register:	04 August 1999
Name of applicant/court:	Christian Heritage Party
Applicant to the Labelling Body:	Not Applicable
Title of Publication:	Untitled
Other Known Titles:	Not Stated
Director:	Not Applicable
Producer:	Not Applicable
Publisher:	Not Applicable
Author:	Not Applicable
Format:	Artwork (ink on paper)
Country of Origin:	USA
Language:	Not Applicable

Components of film originally examined: Not Applicable.

Feature: Running time:

Trailers: Running time:

Total Running time:

Excision/Alteration: Not Applicable.

Reason(s) for Excision:

Not Applicable.

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Classification Decision:

Objectionable except if the availability of the publication is restricted to persons who have attained the age of 13 years or who are accompanied by a parent or guardian.

Display Conditions:

Not Applicable.

Descriptive Note:

Not Applicable.

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Direction to issue a label has been given on: Not Applicable.

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SUMMARY OF THE REASONS FOR DECISION:

This untitled artwork by Keith Haring is classified as:
Objectionable except if the availability of the publication is restricted to persons who have attained the age of 13 years or who are accompanied by a parent or guardian.

The artwork is rendered in ink on paper and measures 91.4cm high and 487.7cm wide. The image is made with thick black ink strokes on a fluorescent orange background, and is composed of six separate images. The first image depicts a Flying Saucer, which casts rays upon two figures running from it. The figures appear to be of humans with one being noticeably smaller than the other in two of the images. The second image presents a figure in the bottom left corner which glows while rays are cast upon it. The third image depicts a Flying Saucer in the top right corner. Rays are cast from it upon two figures in the bottom left. One figure is performing fellatio on the other. Both figures are glowing. The fourth image presents the head of an animal, possibly a fish, emerging from water. The fifth image presents the same fish-like form with two figures to the right. The figures are running. The final image depicts a television set in the bottom left corner. The image on the screen is of the fish-like form. The television glows. To the right, the two figures again engage in fellatio, one figure kneeling in front of the other.

There is some concern from the applicant that because one of the human figures is noticeably smaller it may represent a child or young person. This concern is addressed under s3(2)(a) of the Films, Videos, and Publications Classification Act 1990 (FVPC Act). This criterion is not promoted or supported by the untitled artwork. Four of the six panels depict two human-like figures. In two of these panels one figure is noticeably smaller than the other, however in the other two panels the size difference is insignificant. Therefore it cannot be conclusively stated that the smaller figure is meant to represent a child or young person. Furthermore there is plenty of information regarding Haring's use of symbolism to explain that what is presented on a literal reading is not necessarily the intended message of the work. In other words, there may be interpretations of the work other than the literal. Thus any argument that this work promotes or supports or tends to promote or support the above criterion is significantly weakened by the fact that the work can be given alternate and often contradictory readings.

The untitled artwork must also be considered under s3(3)(a)(iv) of the FVPC Act. It does not present the notion of sexual conduct with children or young persons to any reasonable degree. There is too much inconsistency within the six panels regarding the size difference between the two human-like figures depicted to say with any certainty that a child or young person is engaging in sexual conduct. Certainly in the two panels that present sexual conduct the size difference between the two figures is insignificant.

Fellatio is more an adult or mature persons' concept of things sexual. Knowledge or understanding of adult sexual activities can be reasonably said to sit outside the realm of knowledge and understanding that children and young persons may have about things sexual. While children and young persons may have knowledge of their own bodies and any sexual characteristics that it may possess, they cannot be reasonably expected to understand or have experienced adult concepts of sexual activity such as fellatio.

The Classification Office considers that a viewer must possess a level of cognitive ability consistent with life experience and education, in order to avoid misinterpretation of this artwork. There is a significant section of New Zealand society which may not possess these necessary prerequisites and which is therefore likely to be injured by exposure to this artwork. As simplistic and symbolic as it is, if one cannot interpret beyond the literal then the sexual aspect of this artwork may be quite disturbing.

The Classification Office readily acknowledges Haring's use of artistic tools such as symbolism in conveying ideas and making observations on social phenomena. The Office also acknowledges Haring's status and importance within the art world and his contribution to various groups and causes concerning children. There is also a wealth of information and educational material accompanying the exhibition which helps to explain the context, and to a certain extent, the meaning of this artwork. However, if the requisite cognitive ability to understand this information is missing then the information itself is of little value.

The provisions of the New Zealand Bill of Rights Act 1990 (NZBR Act) have been considered and balanced against the provisions in the FVPC Act in order to allow for the widest possible availability of the artwork consistent with law. The restricted classification given to this artwork is considered to balance Parliament’s intention to protect the public good from the likelihood of injury against the freedom of expression in s14 of the NZBR Act.

OFLC Ref: 9900909